

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

STANLEY F. WASHINGTON, #18857

PLAINTIFF

VS.

CIVIL ACTION NO. 3:06CV575TSL-JCS

MALCOLM MCMILLIN, ET AL.

DEFENDANTS

ORDER

This cause is before the court on the objection of plaintiff Stanley Washington to the magistrate judge's report and recommendation entered on October 18, 2007. Having reviewed plaintiff's submission, the court now concludes that the magistrate's opinion regarding Washington's § 1983 claims based on his dissatisfaction with his classification and alleged unsanitary conditions is adopted in its entirety. Regarding plaintiff's putative ADA claims, the court concludes that the individual capacity claims against the defendants should be dismissed. See Gonzales v. City of Corpus Christi, 2006 WL 1517507, at *5 (S.D. Tex. May 31, 2006) (the plain language of ADA does not "contemplate holding government employees liable in their individual capacities"). However, to the extent that plaintiff purports to state an official capacity claim against Sheriff McMillin, this claim shall be allowed to go forward.

In light of the foregoing, it is further ordered that the motion deadline in this action is reset to January 13, 2008.

Based on the foregoing, it is ordered that the report and

recommendation of United States Magistrate Judge James C. Sumner entered on or about October 18, 2007, as modified above, be, and the same is hereby, adopted as the finding of this court.

SO ORDERED this 20th day of November, 2007.

s/ Tom S. Lee
UNITED STATES DISTRICT JUDGE